

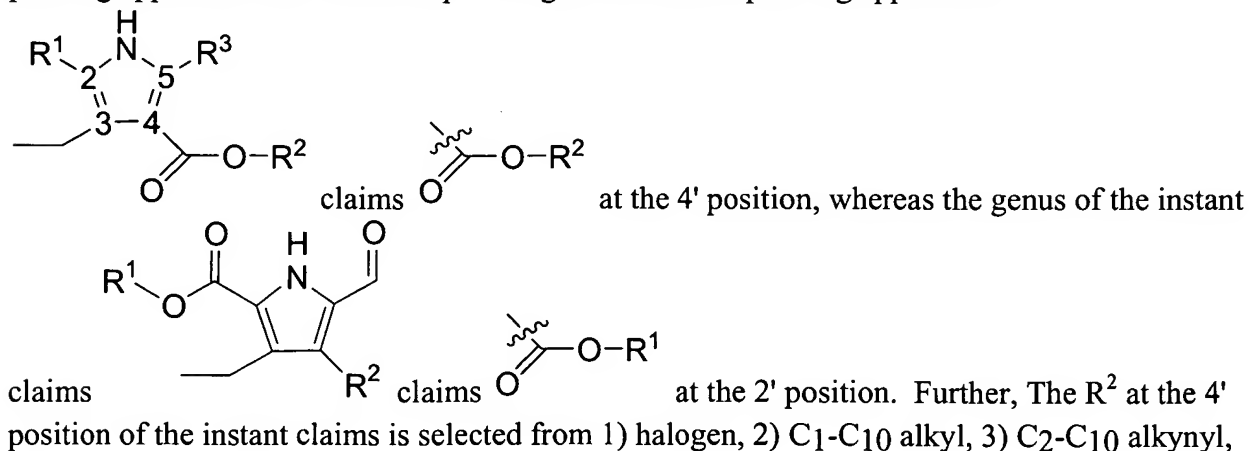
REMARKS

Claims 1-10 and 18 are pending in the instant application after the current Amendments and Remarks. Claim 1 has been currently amended to recite "tert-butyl" for R¹ and to incorporate the embodiments for the optional substitutions. Support for this amendment, can be found for example, on page 8, lines 16-34 and page 9, line 6 of the specification as originally filed. Claim 4 has been amended to cancel an embodiment. No new subject matter has been added. Applicants have canceled subject matter without prejudice to filing continuations or divisionals thereto.

Double Patenting

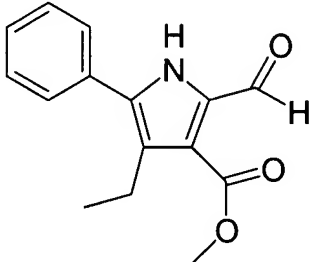
The Examiner has rejected Claims 1, 2, 4, 6 and 10 on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1 –5 of U.S. Patent Application No. 10/564,347. The Examiner contends that the claims in the co-pending application claims a genus of compounds which overlaps with the instant claims. The Examiner also contends that the elected species of the instant application reads on the claims of the '347 application where R² is t-butyl; R¹ is phenyl (aryl); and R³ is –C(O)H. The Examiner further contends that the difference between the elected species and the methyl 4-ethyl-2-formyl-5-phenyl-1H-pyrrole-3-carboxylate of claim 5 of the '347 application is a methyl to t-butyl modification on an ester. The Examiner contends that it would be obvious to one of ordinary skill in the art to modify the alkyl substituent on an ester from a methyl to a t-butyl because they are equivalent in the context of the pharmaceutical arts.

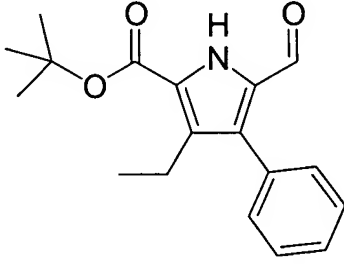
Applicants traverse. First of all, the instant claims and the claims in the co-pending application do not overlap. The genus of the co-pending application



4) phenyl, or 5) heterocyclyl selected from pyridyl, benzofuranyl, isoxazolyl, furyl, pyrrolyl, or thienyl; wherein the carbon atom of said alkyl, alkynyl, phenyl, and heterocyclyl is optionally substituted with one or more of R³;

Second, the methyl 4-ethyl-2-formyl-5-phenyl-1H-pyrrole-3-carboxylate in the co-

pending application has the structure , and the elected species in the

instant application has the structure . The difference between the two is that the t-butyl-ester group of the instant elected species is on the 2' position instead of the 4' position, in which the methyl-ester group resides in the species of the co-pending application.

Applicants submit that the transfer of the ester group from the 4' position to the 2' position is not obvious to one of skill in the art. Therefore, the instant claims are not obvious in view of the co-pending application.

For at least all of the foregoing reasons, Applicants respectfully request reconsideration and withdrawal of the obviousness-type double patenting over U.S application 10/564,347.

Claim Rejections -35 U.S.C. § 102

The Examiner has rejected Claims 1, 2, 4 and 10 under 35 U.S.C. 102(b) as being anticipated by Cho et al. Specifically, the Examiner contends that Cho et al. teaches a compound which anticipates the claims where R¹ and R² are ethyl.

Applicants have amended claims 1 and 2 to replace the embodiment "substituted or unsubstituted C₁-C₁₀ alkyl" with "tert-butyl". Applicants have also amended claim 4 to delete the compound in Cho et al., thereby overcoming the rejection.

In view of the amendments, Applicants respectfully request reconsideration and withdrawal of the §102 rejection over Cho et al.

Claim Rejections -35 U.S.C. § 112

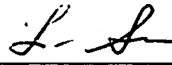
The Examiner has rejected Claims 1, 2, and 10 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner contends that the claims utilize the term "substituted" which has no limits and the specification only describes inclusive examples which are not limiting.

Applicants have amended claims 1 and 2 to specify the optional substituents in the claims.

In view of the amendments, Applicants respectfully request reconsideration and withdrawal of the §112 rejection.

If a telephonic communication with Applicants' representative will aid in the advancement of the prosecution of this application, please telephone the representative indicated below.

Respectfully submitted,

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Date: June 2, 2008